

JOHNNY D. JOHNSON
Claimant

LUMINOUS NEON SIGN, INC.
Respondent

CRUM & FORSTER COMMERCIAL INS.
Insurance Carrier

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ORDER

APPEARANCES

RECORD AND STIPULATIONS

ISSUES

The Award grants benefits for a 4 percent whole body disability. The disability is based on the functional impairment ratings by Dr. P. Brent Koprivica and Dr. Michael J. Poppa. On appeal, respondent contends there is no new accident and no additional disability based on the opinion by Dr. Edward J. Prostic. In addition to the nature and extent of disability, respondent contends claimant failed to prove that he met with personal injury by accident, failed to prove that the accident arose out of and in the course of employment, and failed to prove that he gave timely notice as required by K.S.A. 44-520.

In its Application for Review, respondent also raised issues concerning its entitlement to a credit or offset pursuant to K.S.A. 44-510a and K.S.A. 1996 Supp. 44-501(c), but at oral argument to the Board these issues were withdrawn.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments, the Appeals Board concludes the Award should be affirmed.

The Board agrees with and adopts as its own the findings and conclusions stated by the ALJ in her Award. We agree that the evidence proves claimant suffered accidental injury arising out of and in the course of his employment with respondent on May 8, 1997 and that he gave timely notice. Work disability is not an issue. The Board affirms the finding of a 4 percent permanent partial disability.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award entered by Administrative Law Judge Julie A. N. Sample dated May 17, 1999, should be, and is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of October 1999.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Timothy M. Alvarez, Kansas City, MO
Michael H. Stang, Overland Park, KS
Julie A. N. Sample, Administrative Law Judge
Philip S. Harness, Director